

Catherine Pearson, Esq. #023337
PEARSON LAW GROUP, LLC
9375 E. Shea Blvd., Suite 100
Scottsdale, Arizona 85260
Telephone: (602) 688-6680
Email: catherine@pearsonlg.com

Michelle G. Breit, Esq. #021439
BREIT LAW, P.C.
14300 N. Northsight Blvd., Suite 210
Scottsdale, Arizona 85260
Telephone (480) 336-2800
Email: mbreit@breitlawgroup.com

*Attorneys for Defendants Gavin Hays
and Springboard Inc.,*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

THOMAS HARMON, an individual;
and APEX MEDICAL STAFFING
LLC, a California limited liability
company,

Plaintiffs,

v.

GAVIN HAYS and JANE DOE
HAYS, a married couple;
SPRINGBOARD, INC., an Arizona
corporation; and various unknown
and/or fictional individuals and
entities,

Defendants.

Case No. _____

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441(a) and 1446, and
LRCiv 3.6, Defendants Springboard, Inc. and Gavin Hays (jointly “Defendants”) hereby
remove to this Court an action pending in the Arizona Superior Court, Maricopa County
(No. CV2017-014286).

1 The grounds for removal are:

2 1. On November 1, 2017, Plaintiffs Thomas Harmon and Apex Medical Staffing
3 LLC filed an action in the Superior Court of the State of Arizona, Maricopa County, No.
4 CV-2017-014286 (the “Action”). Plaintiffs served the Summons and Complaint on
5 Defendants on November 6, 2017.

6 2. This Court has original jurisdiction over the Action as Plaintiffs allege
7 Defendants violated §10(b) of the Securities Exchange Act of 1934 (15 U.S.C. § 78j(b))
8 and SEC Rule 10b-5 (17 C.F.R. § 240. 10b-5) based on allegations of material
9 misrepresentations [Complaint ¶¶ 288-294 (Count Six)]. As provided by 15 U.S.C. §78aa
10 (2010), “[t]he district courts of the United States and the United States Courts of any
11 Territory or other place subject to the jurisdiction of the United States shall have exclusive
12 jurisdiction of violations of this chapter or the rules and regulations thereunder....” *See*
13 *also, Matsushita Elec. Indus. Co. v. Epstein*, 516 U.S. 367, 370 (1996) (15 U.S.C. §78aa
14 “unequivocally confers exclusive jurisdiction upon the federal courts for suits brought to
15 enforce the Act or rules and regulations promulgated thereunder”).

16 3. The Action may be removed to this Court under 28 U.S.C. § 1441(b), in that
17 this Court has “original jurisdiction founded on a claim or right arising under the
18 Constitution, treaties, or laws of the United States.”

19 4. Further, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b), as
20 Defendants first received the initial pleading on November 6, 2017, when the Complaint
21 was served on Defendants.

22 5. This Court has supplemental jurisdiction over Plaintiffs’ remaining state law
23 claims pursuant to 28 U.S.C. § 1367, which provides that “district courts shall have
24 supplemental jurisdiction over all other claims that are so related to claims in the action
25 within such original jurisdiction that they form part of the same case or controversy.”
26 Plaintiffs’ state law claims for breach of contract, breach of implied covenant of good faith
27 and fair dealing, breach of fiduciary duty, common law fraud, and violation of A.R.S. §
28 44-1991(A) are sufficiently related to Plaintiffs’ claim under the Securities Exchange Act

1 of 1934 so as to form part of the same case or controversy.

2 6. Defendants have served a copy of this Notice of Removal on Plaintiffs in
3 accordance with 28 U.S.C. § 1446(d).

4 7. This Court is part of the district and division embracing the place where this
5 Action was filed – Maricopa County, Arizona. 28 U.S.C. §§ 1441, 1446. Venue is proper
6 in this district pursuant to 28 U.S.C. § 1391.

7 8. Pursuant to LRCiv 3.6(a), attached as Exhibit A hereto in the most recent
8 version of the docket from the state court Action.

9 9. Pursuant to 28 U.S.C. § 1446(a) and LRCiv 3.6(b), the undersigned counsel for
10 Defendants verifies that true and complete copies of all pleadings and other documents
11 filed in the state court proceeding are filed herewith as Exhibit B.

12 10. Concurrently with the filing of this Notice, a copy of the Notice of Removal to
13 Federal Court has been filed with Clerk of the Superior Court of Maricopa County in
14 accordance with 28 U.S.C. § 1446(d), and is attached hereto as Exhibit C.

15 11. This Notice is signed pursuant to Federal Rule of Civil Procedure 11 in
16 accordance with 28 U.S.C. § 1446(a).

17 12. Based on the foregoing, Defendants hereby remove this action from Maricopa
18 County Superior Court to this Court, and request that further proceedings be conducted in
19 this Court.

20 DATED this 4th day of December 2017.

21 By: s/ Michelle G. Breit
22 Michelle G. Breit, Esq. #021439
23 **BREIT LAW, P.C.**
24 14300 N. Northsight Blvd., Suite 210
Scottsdale, Arizona 85260

25 Catherine M. Pearson
26 **PEARSON LAW GROUP, LLC**
27 9375 E. Shea Blvd., Suite 100
Scottsdale, Arizona 85260

28 *Attorney for Defendants*

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of December 2017, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing and via email to the following CM/ECF registrants:

Chrstopher M. Goodman
LAW OFFICE OF CHRISTOPHER GOODMAN, PLC
45 W. Jefferson St., Suite 512
Phoenix, Arizona 85003
Attorneys for Plaintiffs

By: /s/ Donna Ross